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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,242	11/03/2003	Aaron Caldwell Najera Collins	039928.000006	3781
26133	7590	05/18/2005	EXAMINER	
THOMPSON & KNIGHT, L.L.P. PATENT PROSECUTION GROUP 1700 PACIFIC AVENUE, SUITE 3300 DALLAS, TX 75201			BOCHNA, DAVID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,242

Applicant(s)

COLLINS, AARON CALDWELL
NAJERA

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,9-19 and 28-30 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 3,5-8,24-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ver Nooy.

In regard to claim 1, Ver Nooy discloses a tapping sleeve comprising:

First and second sleeve members 10, 11, the first sleeve member having an outlet aperture 26; and

A gasket 30 having a gasket outlet, the gasket outlet 32 having a pair of tapered surfaces 34a', 34b' on opposing longitudinal sides of the gasket outlet (opposite sides of the oval opening), wherein at least a portion of the tapered surfaces of the gasket are adapted to be compressed against a surface of a pipe disposed between the first and second sleeve members (see col. 3, lines 45-49).

In regard to claim 2, the gasket 30' is a unitary gasket formed by a gasket wall that subtends an arc less than 360 degrees when placed on a pipe in an un-stretch, uncompressed position, thereby forming a gap in the gasket wall (see fig. 2).

3. Claims 20 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Clair et al.

In regard to claim 20, Clair et al. discloses a first and second sleeve members 15, 16 having inner and outer surfaces, the first sleeve member having an outlet aperture 18;

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an outlet retaining lip 45 disposed around the outlet aperture;

an end retaining lip 19 disposed on the inner surfaces of the first and second sleeve members at both ends of the first and second sleeve members;

a substantially continuous annular depression formed by the end retaining lips, the outlet retaining lip, and the inner surfaces of the first and second sleeve members;

a unitary gasket 23 having a gasket wall, an inside surface, an outside surface, and a gasket outlet; and

wherein the unitary gasket is positionable within the annular depression adapted to longitudinally contact a portion of a surface of a pipe received by at least one of the first and second sleeve members.

In regard to claim 22, wherein:

the gasket wall includes a central portion 32 and a stepped portion 39; and

the central portion of the gasket is positionable within the annular depression and the stepped portion 39 is positionable adjacent a radially inward surface of the end retaining lip 19.

In regard to claim 23, wherein:

the gasket 23 is placeable around a pipe 10 such that the inside surface of the gasket is adjacent the pipe and the gasket outlet is aligned with an area of the pipe to be tapped; and

the first and second sleeve members are placeable around the gasket and the pipe such that the inner surfaces of the first and second sleeve members are adjacent the outside surface of the gasket.

4. Claims 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Blakely.

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In regard to claim 20, Clair et al. discloses a first and second sleeve members 11 having inner and outer surfaces, the first sleeve member having an outlet aperture 32;

an outlet retaining lip 34b disposed around the outlet aperture;

an end retaining lip 16 disposed on the inner surfaces of the first and second sleeve members at both ends of the first and second sleeve members;

a substantially continuous annular depression formed by the end retaining lips, the outlet retaining lip, and the inner surfaces of the first and second sleeve members;

a unitary gasket 20 having a gasket wall, an inside surface, an outside surface, and a gasket outlet 38; and

wherein the unitary gasket is positionable within the annular depression adapted to longitudinally contact a portion of a surface of a pipe 15 received by at least one of the first and second sleeve members.

In regard to claim 21, wherein the gasket wall subtends an arc less than 360 degrees when placed on a pipe in an un-stretched, uncompressed position, thereby forming a gap in the gasket wall.

Allowable Subject Matter

5. Claims 4, 9-19 and 28-30 are allowed.

6. Claims 3, 5-8, 21 and 24-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-2 and 20-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read "David Bochna". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David Bochna
Primary Examiner
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May 13, 2005